

FIRST REGULAR SESSION

SENATE BILL NO. 658

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOFFER.

Read 1st time March 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2562S.011

AN ACT

To amend chapter 190, RSMo, by adding thereto eight new sections relating to outside the hospital do-not-resuscitate orders, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 190, RSMo, is amended by adding thereto eight new sections, to be known as sections 190.600, 190.603, 190.606, 190.609, 190.612, 190.615, 190.618, and 190.621, to read as follows:

190.600. 1. Sections 190.600 to 190.621 shall be known and may be cited as the "Outside the Hospital Do-Not-Resuscitate Act".

2. As used in sections 190.600 to 190.621, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Attending physician":

(a) A physician licensed under chapter 334, RSMo, selected by or assigned to a patient who has primary responsibility for treatment and care of the patient; or

(b) If more than one physician shares responsibility for the treatment and care of a patient, one such physician who has been designated the attending physician by the patient or the patient's representative shall serve as the attending physician;

(2) "Cardiopulmonary resuscitation" or "CPR", emergency medical treatment administered to a patient in the event of the patient's cardiac or respiratory arrest, and shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitation medications, and related procedures;

(3) "Department", the department of health and senior services;

(4) "Emergency medical services personnel", paid or volunteer

21 firefighters, law enforcement officers, first responders, emergency
22 medical technicians, or other emergency service personnel acting
23 within the ordinary course and scope of their professions, but
24 excluding physicians;

25 (5) "Health care facility", any institution, building, or agency or
26 portion thereof, private or public, excluding federal facilities and
27 hospitals, whether organized for profit or not, used, operated, or
28 designed to provide health services, medical treatment, or nursing,
29 rehabilitative, or preventive care to any person or persons. Health care
30 facility includes but is not limited to ambulatory surgical facilities,
31 health maintenance organizations, home health agencies, hospices,
32 infirmaries, renal dialysis centers, long-term care facilities licensed
33 under sections 198.003 to 198.186, RSMo, medical assistance facilities,
34 mental health centers, outpatient facilities, public health centers,
35 rehabilitation facilities, and residential treatment facilities;

36 (6) "Hospital", a place devoted primarily to the maintenance and
37 operation of facilities for the diagnosis, treatment, or care for not less
38 than twenty-four consecutive hours in any week of three or more
39 nonrelated individuals suffering from illness, disease, injury, deformity,
40 or other abnormal physical conditions; or a place devoted primarily to
41 provide for not less than twenty-four consecutive hours in any week
42 medical or nursing care for three or more nonrelated
43 individuals. Hospital does not include any long-term care facility
44 licensed under sections 198.003 to 198.186, RSMo;

45 (7) "Outside the hospital do-not-resuscitate identification" or
46 "outside the hospital DNR identification", a standardized identification
47 card, bracelet, or necklace of a single color, form, and design as
48 described by rule of the department that signifies that the patient's
49 attending physician has issued an outside the hospital do-not-
50 resuscitate order for the patient and has documented the grounds for
51 the order in the patient's medical file;

52 (8) "Outside the hospital do-not-resuscitate order" or "outside the
53 hospital DNR order", a written physician's order signed by the patient
54 and the attending physician, or the patient's representative and the
55 attending physician, in a form promulgated by rule of the department
56 which authorizes emergency medical services personnel to withhold or
57 withdraw cardiopulmonary resuscitation from the patient in the event

58 of cardiac or respiratory arrest;

59 (9) "Outside the hospital do-not-resuscitate protocol" or "outside
60 the hospital DNR protocol", a standardized method or procedure
61 promulgated by rule of the department for the withholding or
62 withdrawal of cardiopulmonary resuscitation by emergency medical
63 services personnel from a patient in the event of cardiac or respiratory
64 arrest;

65 (10) "Patient", a person eighteen years of age or older who is not
66 incapacitated, as defined in section 475.010, RSMo, and who is
67 otherwise competent to give informed consent to an outside the
68 hospital do-not-resuscitate order at the time such order is issued, and
69 who, with his or her attending physician, has executed an outside the
70 hospital do-not-resuscitate order under sections 190.600 to 190.621. A
71 person who has a patient's representative shall also be a patient for the
72 purposes of sections 190.600 to 190.621, if the person or the person's
73 patient's representative has executed an outside the hospital do-not-
74 resuscitate order under sections 190.600 to 190.621;

75 (11) "Patient's representative":

76 (a) An attorney in fact designated in a durable power of attorney
77 for health care for a patient determined to be incapacitated under
78 sections 404.800 to 404.872, RSMo; or

79 (b) A guardian or limited guardian appointed under chapter 475,
80 RSMo, to have responsibility for an incapacitated patient.

190.603. 1. A patient or patient's representative and the patient's
2 attending physician may execute an outside the hospital do-not-
3 resuscitate order. An outside the hospital do-not-resuscitate order
4 shall not be effective unless it is executed by the patient or patient's
5 representative and the patient's attending physician, and it is in the
6 form promulgated by rule of the department.

7 2. If an outside the hospital do-not-resuscitate order has been
8 executed, it shall be maintained as the first page of a patient's medical
9 record in a health care facility unless otherwise specified in the health
10 care facility's policies and procedures.

11 3. An outside the hospital do-not-resuscitate order shall be
12 transferred with the patient when the patient is transferred from one
13 health care facility to another health care facility. If the patient is
14 transferred outside of a hospital, the outside the hospital DNR form

15 shall be provided to any other facility, person, or agency responsible
16 for the medical care of the patient or to the patient or patient's
17 representative.

190.606. The following persons and entities shall not be subject
2 to civil, criminal, or administrative liability and are not guilty of
3 unprofessional conduct for the following acts or omissions that follow
4 discovery of an outside the hospital do-not-resuscitate identification
5 upon a patient; provided that the acts or omissions are done in good
6 faith and in accordance with the provisions of sections 190.600 to
7 190.621 and the provisions of an outside the hospital do-not-resuscitate
8 order executed under sections 190.600 to 190.621:

9 (1) Physicians, persons under the direction or authorization of
10 a physician, emergency medical services personnel, or health care
11 facilities that cause or participate in the withholding or withdrawal of
12 cardiopulmonary resuscitation from such patient; and

13 (2) Physicians, persons under the direction or authorization of
14 a physician, emergency medical services personnel, or health care
15 facilities that provide cardiopulmonary resuscitation to such patient
16 under an oral or written request communicated to them by the patient
17 or the patient's representative.

190.609. 1. An outside the hospital do-not-resuscitate order shall
2 only be effective when the patient has not been admitted to or is not
3 being treated within a hospital.

4 2. An outside the hospital do-not-resuscitate order and the
5 outside the hospital do-not-resuscitate protocol shall not authorize the
6 withholding or withdrawing of other medical interventions, such as
7 intravenous fluids, oxygen, or therapies other than cardiopulmonary
8 resuscitation. Outside the hospital do-not-resuscitate orders and the
9 outside the hospital do-not-resuscitate protocol shall not authorize the
10 withholding or withdrawing of therapies deemed necessary to provide
11 comfort care or alleviate pain. Any authorization for withholding or
12 withdrawing interventions or therapies that is inconsistent with
13 sections 190.600 to 190.621 and is found or included in any outside the
14 hospital do-not-resuscitate order or in the outside the hospital do-not-
15 resuscitate protocol shall be null, void, and of no effect. Nothing in this
16 section shall prejudice any other lawful directives concerning such
17 medical interventions and therapies.

18 **3. An outside the hospital do-not-resuscitate order shall not be**
19 **effective during such time as the patient is pregnant; provided,**
20 **however, that physicians, persons under the direction or authorization**
21 **of a physician, emergency medical services personnel, and health care**
22 **facilities shall not be subject to civil, criminal, or administrative**
23 **liability and are not guilty of unprofessional conduct if, while acting in**
24 **accordance with the provisions of sections 190.600 to 190.621 and the**
25 **provisions of an outside the hospital do-not-resuscitate order executed**
26 **under sections 190.600 to 190.621, such persons and entities:**

27 **(1) Comply with an outside the hospital do-not-resuscitate order**
28 **and withdraw or withhold cardiopulmonary resuscitation from a**
29 **pregnant patient while believing in good faith that the patient is not**
30 **pregnant; or**

31 **(2) Despite the presence of an outside the hospital do-not-**
32 **resuscitate order, provide cardiopulmonary resuscitation to a**
33 **nonpregnant patient while believing in good faith that the patient is**
34 **pregnant.**

190.612. 1. Emergency medical services personnel are authorized
2 **to comply with the outside the hospital do-not-resuscitate protocol**
3 **when presented with an outside the hospital do-not-resuscitate**
4 **identification or an outside the hospital do-not-resuscitate**
5 **order. However, emergency medical services personnel shall not**
6 **comply with an outside the hospital do-not-resuscitate order or the**
7 **outside the hospital do-not-resuscitate protocol when the patient or**
8 **patient's representative expresses to such personnel in any manner,**
9 **before or after the onset of a cardiac or respiratory arrest, the desire**
10 **to be resuscitated.**

11 **2. If a physician or a health care facility other than a hospital**
12 **admits or receives a patient with an outside the hospital do-not-**
13 **resuscitate identification or an outside the hospital do-not-resuscitate**
14 **order, and the patient or patient's representative has not expressed or**
15 **does not express to the physician or health care facility the desire to**
16 **be resuscitated, and the physician or health care facility is unwilling**
17 **or unable to comply with the outside the hospital do-not-resuscitate**
18 **order, the physician or health care facility shall take all reasonable**
19 **steps to transfer the patient to another physician or health care facility**
20 **where the outside the hospital do-not-resuscitate order will be**

21 **complied with.**

190.615. 1. A patient's death resulting from the withholding or
2 withdrawal in good faith of cardiopulmonary resuscitation under an
3 outside the hospital do-not-resuscitate order is not, for any purpose, a
4 suicide or homicide.

5 2. The possession of an outside the hospital do-not-resuscitate
6 identification or execution of an outside the hospital do-not-resuscitate
7 order does not affect in any manner the sale, procurement, or issuance
8 of any policy of life insurance, nor does it modify the terms of an
9 existing policy of life insurance. Notwithstanding any term of a policy
10 to the contrary, a policy of life insurance is not legally impaired or
11 invalidated in any manner by the withholding or withdrawal of
12 cardiopulmonary resuscitation from an insured patient possessing an
13 outside the hospital do-not-resuscitate identification or outside the
14 hospital do-not-resuscitate order.

15 3. A physician, health care facility, or other health care provider
16 or a health care service plan, insurer issuing disability insurance, self-
17 insured employee welfare benefit plan, or nonprofit hospital plan shall
18 not require a patient to possess an outside the hospital do-not-
19 resuscitate identification or execute an out of hospital do-not-
20 resuscitate order as a condition for being insured for or receiving
21 health care services.

22 4. Sections 190.600 to 190.621 do not prejudice any right that a
23 patient has to effect the obtaining, withholding, or withdrawal of
24 medical care in any lawful manner apart from sections 190.600 to
25 190.621. In that respect, the rights of patients authorized under
26 sections 190.600 to 190.621 are cumulative.

27 5. The provisions of sections 190.600 to 190.621 shall not be
28 construed to condone, authorize, or approve mercy killing or
29 euthanasia, or to permit any affirmative or deliberate act or omission
30 to shorten or end life.

190.618. 1. By June 30, 2008, the department shall promulgate
2 rules relating to the outside the hospital do-not-resuscitate protocol,
3 the outside the hospital do-not-resuscitate identification, and the
4 outside the hospital do-not-resuscitate forms under sections 190.600 to
5 190.621.

6 2. Any rule or portion of a rule, as that term is defined in section

7 536.010, RSMo, that is created under the authority delegated in this
8 section shall become effective only if it complies with and is subject to
9 all of the provisions of chapter 536, RSMo, and, if applicable, section
10 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
11 and if any of the powers vested with the general assembly pursuant to
12 chapter 536, RSMo, to review, to delay the effective date, or to
13 disapprove and annul a rule are subsequently held unconstitutional,
14 then the grant of rulemaking authority and any rule proposed or
15 adopted after August 28, 2007, shall be invalid and void.

190.621. 1. Any person who knowingly conceals, cancels, defaces,
2 or obliterates the outside the hospital do-not-resuscitate order or the
3 outside the hospital do-not-resuscitate identification of another person
4 without the consent of the other person, or who knowingly falsifies or
5 forges a revocation of the outside the hospital do-not-resuscitate order
6 or the outside the hospital do-not-resuscitate identification of another
7 person, is guilty of a class A misdemeanor.

8 2. Any person who knowingly executes, falsifies, or forges an
9 outside the hospital do-not-resuscitate order or an outside the hospital
10 do-not-resuscitate identification of another person without the consent
11 of the other person, or who knowingly conceals or withholds personal
12 knowledge of a revocation of an outside the hospital do-not-resuscitate
13 order or an outside the hospital do-not-resuscitate identification of
14 another person, is guilty of a class D felony.

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